

# THE BLUE SHEET

MAY 2004 EDITION



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## **LEGISLATION**

The following bills have been reported as Inexpedient to Legislate or Laid on the Table:

CACR 21 – state education property tax exemption for certain disabled veterans.

SB 322 – relative to payment of medical benefits costs for disabled group II members of the retirement system.

SB 323 – relative to the age groups under the elderly property tax exemption.

SB 331 – relative to the offset of workers' compensation lump sum payments against retirement system disability allowances and death benefits.

SB 332 – relative to tolls for disabled veterans.

SB 339 – relative to the involuntary commitment of certain persons found not competent to stand trial for certain criminal offenses.

SB 398 – relative to residency requirements for Medicaid recipients in nursing homes.

SB 404 – establishing a committee to study the feasibility of providing statewide access to "Newsline for the Blind."

SB 408 – relative to a civil liability exemption for claims resulting from weight gain and obesity.

SB 435 – relative to accessible housing for persons of all abilities.

SB 516 – relative to special needs trusts.

HB 1213 – exempting persons age 70 and older from the state and local education portion of property taxes.

HB 1263 – establishing a committee to study the feasibility of creating a trust fund to support a family and disability leave program.

HB 1291 – relative to elderly and handicapped priority low-income housing.

HB 1318 – relative to a senior care provider program and making an appropriation therefore.

HB 1321 – relative to claims before the state commission on human rights.

HB 1322 – relative to the rules for the operation and regulation of supported residential care facilities.

HB 1323 – relative to the rules for the operation and regulation of residential care facilities.

HB 1333 – extending the veterans' property tax credit to all honorably discharged veterans.

HB 1346 – relative to income qualification in the elderly property tax exemption.

The following bills were passed by both the House and Senate:

SCR 5 – commending the United States Congress for supporting full concurrent receipt of disability and retirement benefits by disabled veterans.

SB 314 – relative to access to medical records.

SB 376 – making an appropriation to the department of health and human services for mental health services.

SB 415 – continuing the expanding to all counties the Grafton county court pilot project relative to abuse and neglect hearings.

SB 421 – relative to charter schools.

The following bills have been sent to interim study:

SB 411 – relative to liability for special education transportation costs.

HB 1232 – allowing a disabled person to enroll in a class free of charge at any institution with the university system of New Hampshire, provided a seat is available in the class.

HB 1365 – relative to protecting hearing ear dogs, guide dogs, and service dogs.

The following bills were signed by the Governor:

SB 472 – relative to updating the terminology in statutes affecting children with special health care needs was signed into law by the Governor as Chapter 0021, to be effective 6-4-04.

HB 1254 – granting certain disabled veterans an exemption from state education property taxes. Chapter 0038, effective 4/29/04.

HB 1259 – relative to the medical certification required for a walking disability plate or placard. Chapter 0026, effective 6/11/04.

If you need more information on any bills before the legislature go to [www.state.nh.us](http://www.state.nh.us), click on legislative branch, click on quick search and then enter the bill number or key word.

### **ADA MEDIATION**

\*A person who is hard of hearing complained that a New Jersey town failed to provide effective communication at its public meetings. The town purchased an infrared assistive listening system, trained town employees in the use of the equipment, and agreed to provide notice of the availability of the equipment in all announcements of town meetings.

\*A person who uses a walker in Washington complained that she was unable to walk from the locker room to the pool at the fitness facility she had joined because the floors were too slippery. The fitness facility provided firm, slip-resistant mats to create an accessible route allowing customers with mobility impairments to get from the locker room to the pool.

\*A parent claimed that a summer camp in South Carolina refused to allow her son, who has multiple disabilities, to attend a camp program that included overnights unless she provided a full-time attendant for him. In the course of mediation, the parties agreed to a process to explore whether or not the child needed continual supervision and if so, who would provide it. After several months of good faith exploration, including observation of the child to better understand his needs, the camp agreed to let the child attend its camp without requiring the mother to provide an attendant.

\*A parent of an adult son with mental retardation claimed that the new owners of a Texas resort discriminated against them by refusing to allow them to return to the resort with their son. The resort welcomed the family to return at any time and the family agreed to provide appropriate supervision if needed. The owners obtained training on the ADA and how to provide hospitality services to customers with disabilities. The resort also paid the family \$2,500 and offered them a free three-night stay at the resort.

\*A person with a disability complained that a North Carolina motel refused to rent her a room because she has a service dog. The motel required all staff to complete training on ADA regulations regarding service animals and required all employees to view a video on ADA regulations and to sign off that they had done so. In addition, the motel moved a sign stating that service animals are allowed to accompany guests with disabilities so that it would be more visible to all employees and provided the complainant with a complimentary guest pass to stay one night at any of the owner's four motels.

\*In New Hampshire, a wheelchair user and a companion complained about the possibility that tickets for accessible wheelchair seating were being sold by a professional sports team in Ohio to people who did not need accessible seating. The team agreed to add a notice about ticket fraud and the proper use of tickets on its website and on all brochures and mail materials on wheelchair accessible seating. The team also agreed to state at the time of purchase that the accessible seating is intended for the use of wheelchair users and companions. In addition, the team will hold unsold accessible seats for 72 hours after a game is sold out before making them available to the general public. It also agreed to hold 50 accessible and 50 companion seats until the day of the game before releasing them for general sale.

### **ADA FORMAL SETTLEMENTS BY THE DEPARTMENT OF JUSTICE**

\*O'Grady's Family Restaurant, Phoenixville, Pennsylvania – The Department reached an agreement with the O'Grady's Family Restaurant resolving a complaint by a wheelchair user that the restaurant failed to take readily achievable steps to remove barriers. The restaurant agreed to provide accessible parking and to modify restrooms to make them accessible.

\*Reno Sparks Cab Company, Reno, Nevada – The Department entered an agreement with Reno Sparks Cab Company resolving a complaint alleging that it refused to pick up an individual who is deaf and her service animal because the animal was not identified by a special leash or collar as required by State law. The company agreed to modify its policy and no longer insist that a service animal be identified or certified in any particular manner and to train its drivers on the service animal requirements of the ADA.

\*Jay's Taxi Sikeston, Missouri – The Department signed an agreement with Jay's Taxi Service settling a complaint by a blind individual who alleged that the taxi service charged him an additional fee to transport his service animal. Jay's Taxi agreed not to charge extra fees for service animals and to train current and future employees on this policy.

\*High Country Motel, Cooke County, Montana – The Department signed an agreement with the High Country Motel in Cooke County, Montana, resolving a complaint alleging discrimination by the hotel against an individual with a disability to uses a service animal for hearing and balance. The complainant allegedly reserved a nonsmoking room, but after the motel learned at registration that the complainant had a service animal, he was offered a smoking room because of the motel's policy that barred animals from nonsmoking rooms. The complainant refused to accept the smoking room. The agreement required the motel to modify its policy prohibiting animals from nonsmoking rooms when necessary to accommodate a guest with a disability, post a written policy welcoming service animals in a prominent place at the motel, and compensate the complainant for the cost of finding other lodging.

### **CIRCUIT CITY STORES SUED FOR DISABILITY HARASSMENT**

The U.S. Equal Employment Opportunity Commission (EEOC) filed an employment discrimination lawsuit against Circuit City Stores, Inc., under the ADA. The suit charges the Richmond, Va.-based consumer electronics retail giant with subjecting former employee Olumimi "Jimi" Moses to a hostile work environment because of his disability, sickle cell anemia and avascular necrosis.

According to the EEOC complaint, the disability harassment was directed at Mr. Moses by his second level supervisor and included name-calling and derogatory comments about his disability. Mr. Moses worked as a part-time sales associate from 1997 until 2001.

### **KMART SETTLES DISABILITY BIAS SUIT BY EEOC ON BEHALF OF QUALIFIED APPLICANT WITH A MENTAL IMPAIRMENT**

The EEOC announced the settlement of an employment discrimination lawsuit against Kmart Corporation under the ADA for \$60,000 on behalf of a qualified job applicant with mild mental retardation who was rejected for a stocker position. In addition to the monetary relief for the charging party, Kmart will post a new policy against discrimination and provide ADA training to all employees as part of the agreement.

In its lawsuit EEOC said that the job applicant with a disability applied for a stocker position and completed a pre-employment questionnaire. The applicant's responses on Kmart's questionnaire placed him in Kmart's "recommended hire"

group. Nevertheless, Kmart refused to hire the applicant for a stocker position due to his disability.

### **EEOC SUES DENNY'S FOR DISABILITY DISCRIMINATION**

The EEOC has sued a Galveston Denny's restaurant charging that the company violated the ADA when it refused to hire Rena Alvarado as a hostess despite her demonstrated ability to perform the job. Ms. Alvarado was born with a congenital birth defect and is missing the lower half of her left arm.

The EEOC's suit alleges that Denny's discriminated against Ms. Alvarado when it cited her birth defect in its decision not to hire her. According to the lawsuit, Denny's asked Ms. Alvarado during her interview to lift, carry and balance a tray of four drinks. Despite successfully completing this task and having previous hostess experience, Denny's told Ms. Alvarado that she would not be hired because it doubted that she could do the job.

### **REMEDY INTELLIGENT STAFFING TO PAY \$80,000 TO DEAF APPLICANT FOR DISABILITY DISCRIMINATION**

The EEOC announced the resolution of an employment discrimination lawsuit under the ADA with Remedy Intelligent Staffing, Inc., for failing to hire a job applicant with a hearing impairment.

In its suit, the EEOC said that Remedy refused to consider Quianna Knowles for a general laborer position with the Scotts Company, an insecticide and fertilizer manufacturer in Fort Madison, Iowa. In September 2000, Knowles attempted on three occasions to obtain work at Scotts through Remedy, but was told by the manager of its Fort Madison office that it would be too dangerous for her to work at Scotts because she is deaf. In fact, Knowles had successfully performed similar jobs in the past with only minimal accommodations.

The consent decree provides that Remedy will pay Knowles \$80,000. It also requires that Remedy not discriminate on the basis of disability and that it provide annual training concerning the requirements of the ADA, to all of its managerial and supervisory employees, in all of its offices nationwide, including franchises, for the next two years.

### **MAPLE LAWN NURSING HOME SUED BY EEOC**

The EEOC filed a disability discrimination lawsuit against Maple Lawn Nursing Home for unlawfully terminating an employee because she was HIV-positive.

The Maple Lawn Nursing Home fired a certified nurse's aide when she reported to the nursing home administrator that she had tested positive for HIV. The EEOC's suit says that this termination violated the ADA and that the employee

did not perform duties that could result in blood-to-blood contact with patients. According to the Centers of Disease Control, HIV-infected health care workers who do not perform invasive procedures and who adhere to universal precautions, such as wearing gloves, pose no risk for transmitting HIV to patients.

The EEOC's complaint seeks lost wages, compensatory and punitive damages, and reinstatement for the nurse's aide.

### **APRIA HEALTHCARE SUED BY EEOC FOR DISABILITY BIAS**

The EEOC filed an employment discrimination lawsuit against one of the nation's largest home healthcare providers, Apria Healthcare Group, Inc., based in Lake Forest, California.

The suit charges the healthcare giant with discriminating against an employee with bipolar disorder by firing her rather than attempting to work out a reasonable accommodation that would have allowed her to continue working in its St. Louis County office.

EEOC charges that Apria violated the ADA when it discharged its quality assurance coordinator for job abandonment, even though Apria knew the employee had a disability and it had received her physician's request for a reasonable accommodation. The suit seeks lost wages and benefits, compensatory and punitive damages, reinstatement, and injunctive relief. EEOC filed suit only after its conciliation efforts failed to result in a voluntary pre-litigation settlement.

### **GUIDE DOGS AVAILABLE FREE OF CHARGE FOR PEOPLE WHO ARE BLIND**

The Guide Dog Foundation provides guide dogs free of charge to people who are blind or visually impaired and need the increased mobility and independence that a guide dog provides. The Foundation breeds and trains Labradors and Golden Retrievers for this very important job. It provides transportation to its New York campus, the guide dog, a comprehensive training program, and a lifetime of aftercare services all free of charge to the consumer.

Can you or someone you know benefit from a guide dog? People interested in applying for a guide dog should contact the Guide Dog Foundation Admissions Office. For an application and cassette tape describing the Foundation, call toll-free (866) 282-8047.

## **JUSTICE DEPARTMENT PUBLISHES ADA CHECKLIST FOR POLLING PLACES**

Under the ADA, state and local governments must ensure access to their programs and services, including voting. The U.S. Department of Justice, which regulates and enforces these requirements, has issued an accessibility checklist for polling places. This new publication is designed to help local jurisdictions in selecting sites for polling places through an evaluation of architectural accessibility. With the checklist, users can identify barriers to access and determine how best to address them. The checklist covers access to parking, passenger drop-off areas, sidewalks and entrances so that all areas and elements used by voters are accessible. The checklist can be downloaded from the Department's website at [www.ada.gov/notingck.htm](http://www.ada.gov/notingck.htm).

The Help America Vote Act in New Hampshire  
<http://www.sos.nh.gov/HAVA/index.htm>

In February of 2003, task forces made up of members from the NH Attorney General, the NH Secretary of State, the NH Governor's Commission on Disability, the Disabilities Rights Center, Inc., Granite State Independent Living, the NH Association of the Blind, NH Health & Human Services, election officials, information technology specialists, and others, were formed in order to address the many facets of HAVA. Active task forces consist of the HAVA State Plan Committee, the Statewide Voter Registration Database Task Force, the Disabilities Access and Voting Systems Task Force and the Election Officer Training Task Force.

On April 15, 2003, a voting machine vendor fair was held at the NH Legislative Office Building.  
<http://www.sos.nh.gov/HAVA/voting%20machines%20trade%20fair%20report.htm>

The following companies participated: AccuPoll, Avante International Technology, Diebold/LHS, Election Systems & Software, Encrypted Voting Machine Systems, Sequoia, and TruVote International. Representatives of each manufacturer were interviewed and every machine was tested and evaluated by the task force members. At their request, Avante returned to NH on January 6, 2004 and demonstrated changes made to their product while receiving suggestions for improvements needed.

The draft NH State Plan for HAVA was released in May of 2003 with two public comment hearings being held in August of 2003. The updated plan was submitted in February, 2004.

On June 13, 2003, 400 NH Election Officials attended an all-day training on election laws. Bud Fitch, Assistant Attorney General, spoke about changes in election laws and Cheryl Killam, NH Governor's Commission on Disability, gave

a presentation on disability awareness/etiquette and voter accessibility requirements.

From September through November the AG and SOS provided 22 regional trainings to over 1500 election officials. These trainings were four hours in length, with half of that time devoted to HAVA, Voter Accessibility and Disability Awareness. Included in this training was the revised Election Officials Manual, which now included a section on voter accessibility complete with diagrams from ADAAG.

On (local) Election Day, November 4, 2003, several polling places were evaluated for accessibility by Bud Fitch, Assistant Attorney General, Cheryl Killam, and Thomas Manning, Assistant Secretary of State. This process was video-taped which lead to the creation of two videos: "How to Vote In NH" and "Polling Place Accessibility". These videos are available at the NH SOS's website:

<http://www.state.nh.us/sos/voting%20in%20new%20hampshire%20new.htm>.

A self-evaluation checklist (attached) was created for polling places and was distributed via post office mail and the web to all NH municipalities. The response rate was less than 50%, so it was agreed that the state must evaluate polling places. The Attorney General's office deputized NH Sheriffs for the sole purpose of evaluating polling place compliance with NH Election Laws on Primary Day. Staff and consumers of Granite State Independent Living and the Disabilities Rights Center also agreed to do the evaluations. Training of over 150 of these individuals was provided by Cheryl Killam.

On January 27, 2004, NH Sheriffs evaluated 287 polling places; staff and consumers from GSIL & DRC evaluated another 60 each; 10 were evaluated by Cheryl Killam and Thomas Manning. The municipalities will soon be receiving letters addressing their deficiencies with deadlines for correcting the problems and a grant process for funding. To date 40 polling places have been evaluated by Cheryl Killam with additional site-visits to be performed throughout the summer into the fall.

The task forces continue to work on the Statewide Voter Registration Database and on choosing a voting machine that will best meet the needs of voters who are disabled.

The National Association of Secretaries of State recently issued the "Top 10 List of Most Important and Perhaps Challenging Compliance Points for Disability Access to both the Polling Place and/or the Voting Equipment" and the number one issue listed is "Sensitizing election officials, poll workers and the public to disability issues and how to offer appropriate assistance to voters with disabilities". The Disabilities Access & Voting Systems Task Force and the Election Officer Training Task Force is developing a training video that will

address this need. The task forces agree that it is necessary to continually train election officials in the area of disability awareness.

Too many election officials still feel that voting by absentee ballot is appropriate when the polling place is not accessible. This attitude is not acceptable. In New Hampshire, polling place accessibility has been the law since 1984 as the NH Constitutional Convention passed Resolution 63 which amended Article 11, Part First (<http://www.state.nh.us/constitution/billofrights.html>).

***The people have spoken. Now it is time to act!***

**Related websites:**

NH Attorney General: <http://doj.nh.gov/>

Disabilities Rights Center, Inc.: <http://www.drcnh.org/index.htm>  
Voting page: <http://www.drcnh.org/Issue%20Areas/voting.htm>

Governor's Commission on Disability:  
<http://webster.state.nh.us/disability/index.html>

Granite State Independent Living: <http://www.gsil.org/>

NH Secretary of State: <http://www.sos.nh.gov/>  
Elections page: <http://www.sos.nh.gov/electionsnew.htm>

**SPECIALTY CAMPS FOR CHILDREN**

Camp Sunshine - Camp Sunshine in Casco, Maine is for children with life threatening illnesses and their entire families. Phone information: (207) 655-3800, web site: [www.campsunshine.com](http://www.campsunshine.com)

Williams Syndrome Music and Arts Camp – Belvoir Terrace in Lenox, Ma., offers individuals (ages 11-adult) with Williams Syndrome a one-week overnight program which includes music, dance, art and swimming instruction. Family members may reside on-site. Phone information: (413) 367-9381.

Camp Starfish in Brewster, Ma. – Fosters the success and growth of children with emotional, behavioral and learning problems by providing individualized attention as part of structured, nurturing and fund group programs. Phone information: (508) 385-7979.

Eliot P. Joslin Camp is a residential camp in Charlton, Ma., for boys 7-17.5 with diabetes. Also hosts co-ed wilderness programs for children ages 14-18. Phone information: (617) 732-2455.

Clara Barton Camp is a residential camp for girls ages 6-16 with diabetes. Also offers a co-ed Adventure Camp for students from 9<sup>th</sup> through 12<sup>th</sup> grade with diabetes. Phone information (508) 987-2002.

### **FAMOUS FONE FRIENDS**

Famous Fone Friends is a non-profit organization that provides bright moments in the lives of children who are hospitalized or recovering at home due to serious illness or injury. Celebrities telephone these children to talk to them about hobbies, friends, school and other subjects of interest. Famous Fone Friends can be an actor, athlete or musician ... even Mickey Mouse, Sponge Bob or Bart Simpson.

Hospitals or physicians phone/fax in the name of the child, giving age, brief medical description, phone number and request for specific celebrity. Every effort is made to have the child called as soon as possible, especially if the child's condition is becoming more serious.

If you would like to learn more about this organization call 1-310-204-5683 or on the website at [www.thenancysshow.com/volunteer\\_fff.html](http://www.thenancysshow.com/volunteer_fff.html).

### **BOOK DONATIONS**

Do you have books gathering dust on your bookshelves? Are any of them on a specific diagnosis, educational issue, or children's books that address a life issue such as divorce, illness, or friendship?

If you find you no longer have use for these books, but are not sure what to do with them, NH Family Voices Lending Library will take them and share them with other families, professionals and children. If you have books you would like to donate call them at 1-800-852-3345 x 4525.

### **ABILITY ONLINE**

Ability OnLine is a free Internet community where children/youth with disabilities/illnesses and their parents can meet others like them, make friends from all over the world, share their hopes and fears, find role-models and mentors, and feel like they belong.

Anyone who is interested in joining this online friendship community can register with Ability OnLine using their real name and a password to access their messages. New members are asked to complete an online registration form. The information provided is kept confidential and secure. Once registered, members can exchange public or private messages on a whole range of topics ranging from medical to pets and hobbies.

Parents, caregivers and other professionals also have conferences that may be of interest to them as well. They have conference hosts who monitor all of the public content to make sure it is friendly and appropriate. Their website is: [www.abilityonline.org](http://www.abilityonline.org).

## **ACCESS 04**

Mark your calendars to attend ACCESS04 (formerly the Expo), Northern New England's biggest display of resources for independent living. ACCESS04 is for adults, children, families, seniors, educators, service providers, and policy makers interested in exploring opportunities – through education, technology, and the arts – for full access and participation in the community.

Join them for an exposition of technology, adaptive equipment, services, and resources for independent living. Explore opportunities – through technology, education, and the arts – for full access and participation in the community. Discover new products and services, test the latest equipment, attend a workshop and learn about a new resource, enjoy live music, try out a sport or find a job.

Anyone interested in learning more about independent living, assistive technology, adaptive equipment, accessibility, community resources, and employment, including adults, children, families, seniors, educators, service providers, employers and policy makers should attend this exposition.

No registration is required and admission is free. ACCESS04 will be held June 18, Noon-6:00 p.m. and June 19, 10:00 a.m. – 4:00 p.m., at the Whittemore Center, in Durham, NH. For more information call Granite State Independent Living at 800-826-3700 or log onto their website at: [www.AccessExpo.info](http://www.AccessExpo.info).

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